IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 2nd day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO. 21880 OF 1997

BETWEEN :

Sri Hary Ray
s/o Sri Rekha Ray
Aged about 33 years
C/o S. Rajendra
Door No. 305(2)
Shivapura, Peenya Post
Bangalore - 560 058

.. PETITIONER

(Sri V.S. Naik, Advocate for
petitioner)

A N D :

1. The Management of
M/s Oceanic Engineering
Private Ltd., Plot No. 375
Peenya Second Stage,
2nd Phase, Bangalore - 58
represented by its Manager

2. The Presiding Officer
Ist Additional Labour Court,
Gandhinagar, Bangalore

.. RESPONDENTS

(Sri M.R.C. Ravi, Advocate for R - 1
Sri T.P. Nambiar, A.G.A. for R - 2)

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Writ Petition filed under Articles 226 & 227 of the Constitution of India, praying to; ISSUE A WRIT OF CERTIORARI or any other appropriate writ, order or direction, quashing the Award passed by the Additional Labour Court in Application No. 88/94 dated 7.3.1996, certified copy of which is produced and marked as Annexure - C, in as much as the order passed by the Labour Court is wholly erroneous and otherwise un - justified; ISSUE A WRIT OF MANDAMUS or any other appropriate writ, order or direction, directing the 1st Respondent to pay the amount due to the petitioner as claimed by him in the Application, etc.

This Writ Petition coming on for Preliminary hearing in "B" Group, this day, the Court made the following :

O_R_D_E_R

There is no appearance for the 1st respondent.

2. The worker in question was dismissed from service on 14-6-1990. He raised a dispute and by Annexure - A award, the termination was set aside. The order was made by the Labour Court on 28-1-1991. As the employer did not implement the award, he filed an application

application under Section 33 C(2) of the I.D. Act before the Labour Court to compute the financial benefit he would have earned had the award been implemented. No doubt, the Management opposed the application. After contest, the application was dismissed. In doing so, the Labour Court took the view that the relief sought for by the petitioner is for a certificate to recover the amount as per the award passed in this case and that the amount claimed has not been paid to the worker. The order passed by the Labour Court under Section 33-C(2) of the I. D. Act is challenged in these proceedings.

2. I have heard Mr. V.S. Naik, learned counsel for the petitioner-worker. I do not think the order passed by the Labour Court can be sustained. The petitioner was an employee. He was dismissed from service on 14-6-1990. The award was made by the Labour Court on 28-1-1991 calling upon the Management failed to reinstate the worker, necessarily the worker

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worker is entitled to claim whatever monetary benefits that may arise out of the award. The relief that can arise out of the award is re-employment or the payment of wages as if he is re-employed. There is no need for the worker to seek a certificate in this behalf. In exercise of the power under Section 33-C(2), the amount payable to the worker can always be awarded. In the application before the Labour Court the worker has prayed thatthe Labour Court may compute the monetary benefits available to him and direct the respondent to make payment of the amount. A Memo of Calculation was also filed by the worker in the month of November, 1994, in this behalf. In the circumstances, it was wrong on the part of the Labour Court to have misunderstood the application. There was no need for the worker to seek for a certificate to recover the amount, whereas the Labour Court could have passed an award. Even if a wrong provision is quoted, it should have examined the question as to whether it can grant the larger relief

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relief claimed by the worker. When once the larger relief can be granted, merely because a wrong provision of law was quoted, the application cannot be rejected. The order passed by the Labour Court is, therefore, set aside. The Labour Court is directed to take back the applicationfiled by the worker and look into the claim of the worker and adjudicate the correctness thereof and pass a fresh order in accordance with law. The parties to appear before the Labour Court on1-7-1998. I make it clear that the application shall be disposed of by the Labour Court within a period of 3 months from today. The writ petition is disposed of as above.

Sd/-
JUDGE

HIGH COURT OF KARNATAKA * BANGALORE *

Pkc/Hrp